

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

FRANCIS McCLENDON,

Petitioner,

v.

Case No. 06-C-648

PAMELA WALLACE, Warden,

Respondent.

DECISION AND ORDER

On March 6, 2007, the Court denied Francis McClendon's ("McClendon") petition for a writ of habeas corpus as untimely. McClendon now moves for a certificate of appealability ("COA") on appeal.

A COA may issue only if the applicant makes a substantial showing of the denial of a constitutional right. *See* 28 U.S.C. § 2253(c)(2). Where the Court denied the motion on procedural grounds without reaching the underlying constitutional claim, "a COA should issue when the prisoner shows, at least, that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling." *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

Jurists of reason could not debate whether McClendon's petition was untimely. He offered no justification for the delay in pursuing his claims. Accordingly, McClendon's request for a COA [Docket No. 16] is **DENIED**.

Dated at Milwaukee, Wisconsin, this 27th day of March, 2007.

SO ORDERED,

s/ Rudolph T. Randa

HON. RUDOLPH T. RANDA

Chief Judge